



General Assembly

January Session, 2005

Substitute Bill No. 64

* SB00064AGEPH_030905 *

AN ACT CONCERNING THE ADMISSION AND CARE OF PATIENTS IN NURSING HOMES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-359 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) For purposes of this section, the terms "mentally ill" and
4 "specialized services" shall be as defined in Subsections (e)(7)(G)(i) and
5 (iii) of Section 1919 of the Social Security Act and federal regulations
6 and "trained staff" means staff trained in behavioral risk assessment
7 and risk management appropriate for a nursing home setting.

8 [(b) No nursing facility shall admit any person, irrespective of
9 source of payment, who has not undergone a preadmission screening
10 process by which the Department of Mental Health and Addiction
11 Services determines, based upon an independent physical and mental
12 evaluation performed by or under the auspices of the Department of
13 Social Services, whether the person is mentally ill and, if so, whether
14 such person requires the level of services provided by a nursing
15 facility and, if such person is mentally ill and does require such level of
16 services, whether the person requires specialized services. A person
17 who is determined to be mentally ill and not to require nursing facility
18 level services shall not be admitted to a nursing facility. In order to
19 implement the preadmission review requirements of this section and

20 to identify applicants for admission who may be mentally ill and
21 subject to the requirements of this section, nursing facilities may not
22 admit any person, irrespective of source of payment, unless an
23 identification screen developed, or in the case of out-of-state residents
24 approved, by the Department of Social Services has been completed
25 and filed in accordance with federal law.]

26 (b) A nursing facility may not admit any person, irrespective of
27 source of payment, unless an initial identification screen developed, or
28 in the case of out-of-state residents, approved by the Department of
29 Social Services to identify whether such person may be mentally ill has
30 been completed and filed in accordance with federal law. A nursing
31 facility shall not admit any applicant to the nursing facility who is
32 initially identified as having a mental illness, irrespective of source of
33 payment, unless: (1) Such applicant has undergone a second
34 preadmission screening process by which the Department of Mental
35 Health and Addiction Services determines whether the applicant is
36 mentally ill, based upon an independent physical and mental
37 evaluation performed by or under the auspices of the Department of
38 Social Services, and, if so, whether such person requires the level of
39 services provided by a nursing facility and, if such person is mentally
40 ill and does require such level of services, whether the person requires
41 specialized services, (2) the nursing facility has been provided with a
42 copy of the second preadmission screening, and (3) the administrator
43 of the nursing facility, in consultation with the medical director,
44 director of nursing and the director of admissions for the nursing
45 facility completes a written determination of whether the nursing
46 facility has appropriate physical and program space, trained staff and
47 programming to provide for the care and safety of such person and
48 other residents of the nursing home. A person who is determined to be
49 mentally ill and not to require nursing facility level services shall not
50 be admitted to a nursing facility.

51 (c) The Commissioner of Mental Health and Addiction Services,
52 after consultation with the Commissioner of Public Health, shall
53 develop a recommended curriculum guide and continued training

54 syllabus for trained staff. The curriculum guide and training syllabus
55 shall include information on caring for patients with dementia, as
56 defined in the most recent edition of the American Psychiatric
57 Association's "Diagnostic and Statistical Manual of Mental Disorders".

58 ~~[(c)]~~ (d) No payment from any source shall be due to any nursing
59 facility that admits a resident in violation of the preadmission
60 screening requirements of this section.

61 ~~[(d)]~~ (e) A nursing facility shall notify the Department of Mental
62 Health and Addiction Services when a resident who is mentally ill
63 undergoes a significant change in condition or when a resident who
64 has not previously been diagnosed as mentally ill undergoes a change
65 in condition which may require specialized services. The notification
66 provided by the nursing facility to the Department of Mental Health
67 and Addiction Services shall include information on whether the
68 nursing facility has the appropriate physical and program space,
69 trained staff and programming to continue to meet such resident's
70 individualized needs. Upon such notifications, the Department of
71 Mental Health and Addiction Services, under the auspices of the
72 Department of Social Services, shall perform an evaluation to
73 determine whether the resident requires the level of services provided
74 by a nursing facility or requires specialized services for mental illness.

75 ~~[(e)]~~ (f) In the case of a mentally ill resident who is determined
76 under subsection ~~[(d)]~~ (e) of this section not to require the level of
77 services provided by a nursing facility but to require specialized
78 services for mental illness and who has continuously resided in a
79 nursing facility for at least thirty months before the date of the
80 determination, the resident may elect to remain in the facility or to
81 receive services covered by Medicaid in an alternative appropriate
82 institutional or noninstitutional setting in accordance with the
83 alternative disposition plan submitted by the Department of Social
84 Services to the Secretary of the United States Department of Health
85 and Human Services, and consistent with the Department of Mental
86 Health and Addiction Services requirements for the provision of

87 specialized services.

88 [(f)] (g) In the case of a mentally ill resident who is determined
89 under subsection [(d)] (e) of this section not to require the level of
90 services provided by a nursing facility but to require specialized
91 services for mental illness and who has not continuously resided in a
92 nursing facility for at least thirty months before the date of the
93 determination, the nursing facility in consultation with the Department
94 of Mental Health and Addiction Services shall arrange for the safe and
95 orderly discharge of the resident from the facility. If the department
96 determines that the provision of specialized services requires an
97 alternate residential placement, the discharge and transfer of the
98 resident shall be made in accordance with the alternative disposition
99 plan submitted by the Department of Social Services and approved by
100 the Secretary of the United States Department of Health and Human
101 Services, except if an alternate residential placement is not available,
102 the resident shall not be transferred.

103 [(g)] (h) In the case of a resident who is determined under
104 subsection [(d)] (e) of this section not to require the level of services
105 provided by a nursing facility and not to require specialized services,
106 the nursing facility shall arrange for the safe and orderly discharge of
107 the resident from the facility.

108 [(h)] (i) Any person seeking admittance to a nursing facility or any
109 resident of a nursing facility who is adversely affected by a
110 determination of the Department of Mental Health and Addiction
111 Services under this section may appeal such determination to the
112 Department of Social Services [within] no later than fifteen days [of]
113 after the receipt of the notice of a determination by the Department of
114 Mental Health and Addiction Services. If an appeal is taken to the
115 Department of Social Services the determination of the Department of
116 Mental Health and Addiction Services shall be stayed pending
117 determination by the Department of Social Services.

118 Sec. 2. Section 17b-360 of the general statutes is repealed and the

119 following is substituted in lieu thereof (*Effective October 1, 2005*):

120 (a) For purposes of this section, the terms "mental retardation", "a
121 condition related to mental retardation" and "specialized services" shall
122 be as defined in Subsection (e)(7)(G)(ii) of Section 1919 of the Social
123 Security Act and federal regulations and "trained staff" means staff
124 trained in behavioral risk assessment and risk management
125 appropriate for a nursing home setting.

126 [(b) No nursing facility may admit any new resident irrespective of
127 source of payment, who has mental retardation or has a condition
128 related to mental retardation unless the Department of Mental
129 Retardation has determined prior to admission based upon an
130 independent physical and mental evaluation performed by or under
131 the auspices of the Department of Social Services that because of the
132 physical and mental condition of the individual, the individual
133 requires the level of services provided by a nursing facility. If the
134 individual requires such level of services, the Department of Mental
135 Retardation shall also determine whether the individual requires
136 specialized services for such condition. An individual who is
137 determined by the Department of Mental Retardation to have mental
138 retardation or to have a related condition and is determined not to
139 require nursing facility level of services shall not be admitted to a
140 nursing facility. In order to implement the preadmission review
141 requirements of this section, and to identify applicants for admission
142 who may have mental retardation or have conditions related to mental
143 retardation and subject to the requirements of this section, nursing
144 facilities may not admit any individual irrespective of source of
145 payment, unless an identification screen developed, or in the case of
146 out-of-state residents approved, by the Department of Social Services
147 has been completed for the applicant and filed in accordance with
148 federal law.]

149 (b) A nursing facility may not admit any person, irrespective of
150 source of payment, unless an initial identification screen developed, or
151 in the case of out-of-state residents approved, by the Department of

152 Social Services to identify whether such person may be mentally
153 retarded or have a condition related to mental retardation has been
154 completed and filed in accordance with federal law. A nursing facility
155 shall not admit any applicant to the nursing facility who is initially
156 identified as being mentally retarded or having a condition related to
157 mental retardation, irrespective of source of payment, unless: (1) Such
158 applicant has undergone a second preadmission screening process by
159 which the Department of Mental Retardation determines whether the
160 applicant is mentally retarded or has a condition of mental retardation,
161 based upon an independent physical and mental evaluation performed
162 by or under the auspices of the Department of Social Services, and, if
163 so, whether such person requires the level of services provided by a
164 nursing facility and, if such person is mentally retarded or has a
165 condition of mental retardation and does require such level of services,
166 whether the person requires specialized services, (2) the nursing
167 facility has been provided with a copy of the second preadmission
168 screening, and (3) the administrator of the nursing facility, in
169 consultation with the medical director, director of nursing and the
170 director of admissions for the nursing facility completes a written
171 determination of whether the nursing facility has appropriate physical
172 and program space, trained staff and programming to provide for the
173 care and safety of such person and other residents of the nursing
174 home. A person who is determined to be mentally retarded or have a
175 condition related to mental retardation and not to require nursing
176 facility level services shall not be admitted to a nursing facility.

177 (c) The Commissioner of Mental Retardation, after consultation with
178 the Commissioner of Public Health, shall develop a recommended
179 curriculum guide and continued training syllabus for trained staff.

180 [(c)] (d) No payment from any source shall be due to a nursing
181 facility that admits a resident in violation of the preadmission
182 screening requirements of this section.

183 [(d)] (e) A nursing facility shall notify the Department of Mental
184 Retardation when a resident who has mental retardation undergoes a

185 change in condition or when a resident who has not previously been
186 diagnosed as having mental retardation undergoes a significant
187 change in condition which may require specialized services. The
188 notification provided by the nursing facility to the Department of
189 Mental Retardation shall include information on whether the nursing
190 facility has the appropriate physical and program space, trained staff
191 and programming to continue to meet such resident's individualized
192 needs. Upon such notification, the Department of Mental Retardation,
193 under the auspices of the Department of Social Services, shall perform
194 an evaluation to determine whether the resident requires the level of
195 services provided by a nursing facility or requires specialized services
196 for mental retardation.

197 ~~[(e)]~~ [(f)] In the case of a resident who is determined under subsection
198 ~~[(d)]~~ [(e)] of this section not to require the level of services provided by a
199 nursing facility but to require specialized services for mental
200 retardation or a condition related to mental retardation and who has
201 continually resided in a nursing facility for at least thirty months
202 before the date of the determination, the resident may elect to remain
203 in the facility or to receive services covered by Medicaid in an
204 alternative appropriate institutional or noninstitutional setting in
205 accordance with the terms of the alternative disposition plan
206 submitted by the Department of Social Services and approved by the
207 Secretary of the United States Department of Health and Human
208 Services.

209 ~~[(f)]~~ [(g)] In the case of a resident with mental retardation or a related
210 condition who is determined under subsection ~~[(d)]~~ [(e)] of this section
211 not to require the level of services provided by a nursing facility but to
212 require specialized services for mental retardation or the related
213 condition and who has not continuously resided in a nursing facility
214 for at least thirty months before the date of the determination, the
215 nursing facility in consultation with the Department of Mental
216 Retardation shall arrange for the safe and orderly discharge of the
217 resident from the facility. If the department determines that the
218 provision of specialized services requires an alternative residential

219 placement, the discharge and transfer of the patient shall be in
220 accordance with the alternative disposition plan submitted by the
221 Department of Social Services and approved by the Secretary of the
222 United States Department of Health and Human Services, except if an
223 alternative residential facility is not available, the resident shall not be
224 transferred.

225 ~~[(g)]~~ [(h)] In the case of a resident who is determined under
226 subsection ~~[(d)]~~ [(e)] of this section not to require the level of services
227 provided by a nursing facility and not to require specialized services,
228 the nursing facility shall arrange for the safe and orderly discharge of
229 the resident from the facility.

230 ~~[(h)]~~ [(i)] The Department of Mental Retardation shall be the agency
231 responsible for making the determinations required by this section on
232 behalf of individuals who have mental retardation and on behalf of
233 individuals with conditions related to mental retardation and may
234 provide services to such individuals to the extent required by federal
235 law.

236 ~~[(i)]~~ [(j)] Any person seeking admittance to a nursing facility or any
237 resident of a nursing facility who is adversely affected by a
238 determination of the Department of Mental Retardation under this
239 section may appeal such determination to the Department of Social
240 Services ~~[within]~~ no later than fifteen days ~~[of]~~ after the receipt of the
241 notice of a determination by the Department of Mental Retardation. If
242 an appeal is taken to the Department of Social Services, the
243 determination of the Department of Mental Retardation shall be stayed
244 pending determination by the Department of Social Services.

245 Sec. 3. (NEW) (*Effective October 1, 2005*) The Commissioner of Social
246 Services, after consultation with the Commissioner of Mental Health
247 and Addiction Services, shall amend the Pre-Admission Level II
248 Evaluation Form required under federal law to incorporate any
249 relevant criteria developed by the Commissioner of Mental Health and
250 Addiction Services regarding the high risk behavior of patients to be

251 evaluated. Relevant criteria shall include, but not be limited to,
252 whether a patient has dementia, as defined in the most recent edition
253 of the American Psychiatric Association's "Diagnostic and Statistical
254 Manual of Mental Disorders".

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	17b-359
Sec. 2	<i>October 1, 2005</i>	17b-360
Sec. 3	<i>October 1, 2005</i>	New section

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Joint Favorable Subst. C/R

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